

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MARK ANTHONY CLARK, #26409-077,
Petitioner,

v.

TAMYRA JARVIS, Warden, USP Coleman,
Respondent.

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3:11-CV-3567-M (BK)

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE, AND
DENYING CERTIFICATE OF APPEALABILITY**

The United States Magistrate Judge made Findings, Conclusions and a Recommendation in this case on January 20, 2012. Petitioner filed Objections on March 16, 2012, and the District Court has made a *de novo* review of those portions of the proposed Findings, Conclusions and Recommendation to which objection was made. The Objections are overruled, and the Court **ACCEPTS** the Findings, Conclusions and Recommendation of the United States Magistrate Judge. However, the Court clarifies one matter that does not impact the result. The second paragraph on page 3 of the Findings sets forth the general rule. The first paragraph on page 4 of the Findings, which cites *Maleng* and *Lackawanna*, refers to a potential exception to the general rule, which has not been shown to be applicable here.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Sections 2254 and 2255 Proceedings for the United States District Court, and 28 U.S.C. § 2253(c), the Court **DENIES** a certificate of appealability. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions and Recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court]

was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

SO ORDERED this 29th day of March, 2012.

A handwritten signature in black ink, reading "Barbara M. G. Lynn". The signature is written in a cursive style with a horizontal line underneath it.

BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS